



COVID-19's lasting effects on forced migrants' rights at the EU's southern frontier

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Abstract: The situation of people arriving by boat to Malta on the EU's southernmost frontier was precarious before COVID-19. During the pandemic, it got considerably worse: migrants were perceived as a threat and their rights were curtailed. This legacy has proven durable.

Forced migrants in Malta are at the receiving end of increasingly repressive policies – this does not augur well for human rights. For an [article](#) recently published in the *Journal of Immigrant & Refugee Studies*, we traced the treatment before, during and after COVID-19 of forced migrants to Malta, a small island state on the EU's southern border. What we found was a situation which before the pandemic showed some small, piecemeal improvements from a humanitarian point of view, but where the pandemic unleashed unprecedented repression on forced migrants. Crucially, while all other COVID-19 measures have been revoked, this is not the case with the restrictions facing migrants.

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Pre-pandemic positive changes in the treatment of people arriving irregularly by boat to Malta should not be exaggerated given that the main thrust remained repressive. Notably, the policy of interdicting and preventing boat arrivals stayed intact throughout the period from 2002 (when arrivals picked up) until 2020. However, we argue that there were some improvements in the regulation and practice of detention of people arriving by boat, a demilitarisation of migrant detention, and a de-securitisation of health provision (in the early days migrants who needed medical care were taken to hospital or health clinics under police escort). Moreover, there were some improvements in the legal framework.

Several factors led to these improvements. The first was pressure from an increasingly vocal Maltese civil society consisting both of [secular and Church-based NGOs](#). Then there were international pressures: from the Council of Europe – and in particular its Committee for the Prevention of Torture ([CPT](#)) –, from the EU and its directives of the time (such as for instance the EU [Reception Conditions Directive](#)), the UN bodies, and from international humanitarian NGOs, foremost of which Médecins Sans Frontières ([MSF](#)).

Although there were signs of increased repression already before the pandemic, COVID-19 marked a turning point. Two examples show how migrants were securitised during the pandemic and how their human rights were denied. On 5 April 2020, after eight migrants had tested COVID-19 positive, the Maltese Superintendent of Public Health [ordered](#) a two-week lockdown, later further extended, of over 1,000 mostly sub-Saharan African migrants in the so called Ħal Far open centre. The day after, the Armed Forces of Malta [surrounded](#) the centre: it was the only time that the armed forces were used to restrict a specific population during the pandemic. The conditions at Ħal Far were well-known to be [unsanitary](#), with residents forced to live in close proximity in shared mobile containers with common toilets and showers.

In another incident of 30 April 2020, the Maltese government [announced](#) that 57 people rescued at sea would not be allowed to disembark in Malta. Instead, they would be kept on a leased tourist vessel outside Maltese territorial waters. In a [letter](#) sent to the European Commission, the government threatened to hold the survivors on the boat until it received tangible plans for their relocation to fellow EU member states. In total, between April and June 425 people were detained out at sea, despite testing negative for COVID-19.

These two measures illustrate the securitisation of forced migrants and the way human rights – including the right to health – for this group were restricted. Other rights were also put in jeopardy: during the first COVID-19 period, migrants were often detained [for many months](#). Legal and psycho-social aid in the camps was [halted](#), meaning, among other things, that appeals of asylum decisions were practically impossible. A new, accelerated three-day asylum procedure was [introduced](#) for inadmissible and manifestly unfounded claims - a procedure which omitted the right to appeal. Malta (and Italy) declared their harbours unsafe and closed them to migrant landings.

Moreover, only refugees with full international protection (the smallest group) [received](#) the COVID-19 economic support and government vouchers which were otherwise distributed to the whole resident population. These measures targeted migrants arriving by boat through the ‘central Mediterranean route’, who are already vulnerable, having crossed on the deadliest migratory route globally. The measures imposed on migrants during the pandemic were different to those affecting other parts of the population, because they did little to protect them: rather, they placed them in situations of higher risk.

They also indicate that previously restraining forces – civil society and international pressures – have either been weakened or changed character. During the pandemic, civil society organisations lost much of their voice, due to the restrictions but also due to the fear that the virus instilled in people. Pressures from the CPT did continue: indeed, some of the most scathing recent reports of the treatment of migrants in Hal Far have been issued by [that body](#). But the pressure from the EU all but ceased. Given the more repressive turn that EU-wide migration policies have taken, it is perhaps not surprising that the only COVID-19 measures that have not been fully rescinded concern forced migrants. Thus, the restrictive procedure put in place during the pandemic, which severely limits migrant detainees’ access to lawyers, is still in place. Psychologists and counsellors have not been granted the access to the centres that they enjoyed before the pandemic. Rules put in place since 2021 continue to [deny](#) civil society organisations access to detention centres to organise activities, provide information and other services, and generally alleviate some of the isolation which characterizes immigration detention. This also means that the important role that NGOs used to play as independent human rights monitors has been discontinued. The systematic practice of non-assistance or lack of timely rescue at sea [persists](#). Malta sits on the EU’s external border, and just like other southern European countries such as Italy and Greece, we can here observe how the increasingly restrictive EU migration and border management policies play out in practice.